

ROBERT BONSALE  
GEOFFREY PILLER  
CATHERINE E. HOLZHAUSER  
JOHN C. PROVOST  
ANDREW H. BAKER  
SHEILA K. SEXTON  
DALE L. BRODSKY  
COSTA KERESTENZIS  
PETER M. MCENTEE  
SUSAN K. GAREA  
SARAH SANDFORD-SMITH  
CHRISTOPHER HAMMER  
STEPHANIE PLATENKAMP  
SARAH KANTER  
LORRIE E. BRADLEY  
TONY RICE  
SARAH S. KANBAR

**BEESON, TAYER & BODINE**  
ATTORNEYS AT LAW  
A PROFESSIONAL CORPORATION  
483 NINTH STREET, SUITE 200  
OAKLAND, CALIFORNIA 94607-4051  
(510) 625-9700  
FAX (510) 625-8275



SACRAMENTO OFFICE  
520 CAPITOL MALL, SUITE 300  
SACRAMENTO, CA 95814-4714  
(916) 325-2100  
FAX (916) 325-2120

DONALD S. TAYER  
(1932-2001)

WWW.BEESONTAYER.COM

OF COUNSEL  
DUANE B. BEESON

MEMORANDUM

abaker@beesontayer.com

To: National Labor Relations Board  
From: Andrew H. Baker  
Date: February 16, 2018  
Re: *Request for Information Concerning Representation Case Procedures*

I represent labor organizations and employees in matters before the National Labor Relations Board. I write to provide information concerning the Board's representation case procedures in response to your request.

The amendments to the procedures adopted in December 2014 represent modest and common-sense changes in the processing of petitions for an election. I urge the Board not to alter the amendments.

In my experience under the amended rules:

1. Unnecessary litigation has been reduced and the time required for the Board to process representation petitions has been shortened.
2. The rules have been made simpler and easier for union representatives and employees to understand.
3. Board practice has been brought more into line with judicial practice and thus made participation in representation cases easier for counsel.
4. All parties have been accorded due process.
5. Employers that wished to do so have mounted vigorous campaigns that have effectively conveyed the same types of information using the same methods as was the case prior to the amendments.
6. Employees have been better able to exercise their right to petition and to make a free choice of whether to be represented.
7. As specific examples of these points I refer to the following cases.

- In *Sacramento Ballet*, NLRB Case No. 20-RC-195687, the Board Agent worked with the parties to quickly reach an agreement for a timely election. The Employer's concerns over the unit inclusion/exclusion of certain dual-function employees was fully addressed without the need for a hearing.
- In *Cumulus Media*, NLRB Case No. 20-RC-145236, an agreement for an Armour-Globe election was quickly reached with an employer that, under the old election rules, had gone to a pre-election hearing that substantially delayed the holding of an election.
- In *The Ratto Group*, NLRB Case No. 20-RC-197722, the parties agreed to defer their dispute over the inclusion in the unit of two employee classifications until after the election was conducted and thus avoided the necessity of a pre-election hearing.

8. In general, it is clear that the current election rules have vastly diminished the need for Board hearings. I have been representing labor organizations before the NLRB since 1988. Prior to the adoption of the current election rules, I would estimate that approximately one third of the representation petitions I handled involved a pre-election Board hearing. Since the current rules went into effect on April 1, 2015, I have represented labor organizations before the NLRB in eleven RC cases, and in only one of those cases was a pre-election hearing necessary.

Thank you for your attention to this matter.